

OPINION
57-18

February 12, 1957 (OPINION)

CITIES

RE: Appointive Officers - Removal - Salary

We are in receipt of your letter of February 8, 1957, in which you ask if a city official, who has been removed, is entitled to his salary until the end of the month or only up to the day which he was removed.

It appears that the right of a public officer to his salary does not arise by virtue of contract, express or implied, but, if it exists at all, exists as a creature of the law and as incident to the office which he occupies. *Ness v. City of Fargo*, 64 N.D. 231, 251 N.W. 843 (1933). And the authorities seem to be in agreement on the proposition that a public officer who is rightfully removed is not entitled, after his removal, to the compensation attached to the office or position. See 67 C.J.S. 323; 2 *McQuillin, Municipal Corporations* (2d. Ed.) 314; 43 AM. Jur. 162, and the cases cited therein.

Research reveals no statutes or North Dakota cases to the contrary and we therefore advise, in accordance with the above statement, that the officer in question is entitled to compensation only up to the date of his removal and not to the end of the month.

LESLIE R. BURGUM

Attorney General